

EDMONDS CITY COUNCIL APPROVED MINUTES

July 6, 2010

At 6:00 p.m., Mayor Pro Tem Bernheim announced that the City Council would meet in executive session regarding pending and threatened litigation. He stated that the executive session was scheduled to last approximately 60 minutes and would be held in the Jury Meeting Room, located in the Public Safety Complex. No action was anticipated to occur as a result of meeting in executive session. Elected officials present at the executive session were: Mayor Pro Tem Bernheim, and Councilmembers Plunkett, Fraley-Monillas, Buckshnis, and Peterson. Councilmember Wilson arrived at 6:18 p.m. Others present were City Attorney Scott Snyder, Community Services/Economic Development Director Stephen Clifton, Public Works Director Phil Williams, and City Clerk Sandy Chase. City Engineer Rob English joined the executive session at 6:43 p.m. The executive session concluded at 7:03 p.m.

The regular City Council meeting was called to order at 7:05 p.m. by Mayor Pro Tem Bernheim in the Council Chambers, 250 5th Avenue North, Edmonds. The meeting was opened with the flag salute.

ELECTED OFFICIALS PRESENT

Steve Bernheim, Mayor Pro Tem
Strom Peterson, Council President Pro Tem
D. J. Wilson, Councilmember
Michael Plunkett, Councilmember
Adrienne Fraley-Monillas, Councilmember
Diane Buckshnis, Councilmember
Lora Petso, Councilmember (seated at 7:37 p.m.)

STAFF PRESENT

Stephen Clifton, Community Services/Economic Development Director
Brian McIntosh, Parks & Recreation Director
Noel Miller, Public Works Director
Phil Williams, Public Works Director
Lorenzo Hines, Finance Director
Rob Chave, Planning Manager
Jerry Shuster, Stormwater Eng. Program Mgr.
Frances Chapin, Cultural Services Manager
Carl Nelson, CIO
Rob English, City Engineer
Scott Snyder, City Attorney
Sandy Chase, City Clerk
Linda Hynd, Deputy City Clerk
Jana Spellman, Senior Executive Council Asst.
Jeannie Dines, Recorder

1. APPROVAL OF AGENDA

COUNCILMEMBER WILSON MOVED, SECONDED BY COUNCILMEMBER PLUNKETT, TO ADD "REMOVAL OF TREE AT 3RD & WALNUT" AS AGENDA ITEM 12A. MOTION CARRIED UNANIMOUSLY.

COUNCILMEMBER WILSON MOVED, SECONDED BY COUNCILMEMBER PLUNKETT, TO APPROVE THE AGENDA IN CONTENT AND ORDER AS AMENDED. MOTION CARRIED UNANIMOUSLY.

2. CONSENT AGENDA ITEMS

Councilmember Buckshnis requested Item I be removed from the Consent Agenda.

COUNCIL PRESIDENT PRO TEM PETERSON, MOVED, SECONDED BY COUNCILMEMBER WILSON, TO APPROVE THE REMAINDER OF THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. The agenda items approved are as follows:

- A. ROLL CALL**
- B. APPROVAL OF CITY COUNCIL MEETING MINUTES OF JUNE 22, 2010.**
- C. APPROVAL OF CITY COUNCIL MEETING MINUTES OF JUNE 29, 2010.**
- D. APPROVAL OF CLAIM CHECKS #119672 THROUGH #119798 DATED JUNE 24, 2010 FOR \$644,648.20, AND #119799 THROUGH #119891 DATED JULY 1, 2010 FOR \$365,466.77. APPROVAL OF PAYROLL DIRECT DEPOSIT AND CHECKS #49466 THROUGH #49538 FOR THE PERIOD JUNE 16 THROUGH JUNE 30, 2010 FOR \$716,329.76.**
- E. ACKNOWLEDGE RECEIPT OF A CLAIM FOR DAMAGES FROM SHIRLEY A. MCCABE (\$300.00).**
- F. REQUEST FOR AUTHORIZATION FOR THE MAYOR PRO TEM TO SIGN CONTRACT AMENDMENT FOR PAYMENT SCHEDULE FOR SR 99 HIGHWAY ENHANCEMENTS AGREEMENT FOR COMMISSIONING ART WORK.**
- G. AUTHORIZATION FOR THE MAYOR PRO TEM TO SIGN AN AMENDMENT TO THE RECYCLING GRANT AGREEMENT, NO. G1000397, BETWEEN THE WASHINGTON STATE DEPARTMENT OF ECOLOGY AND THE CITY OF EDMONDS.**
- H. AUTHORIZATION FOR MAYOR PRO TEM TO SIGN AN INTERLOCAL AGREEMENT WITH EDMONDS SCHOOL DISTRICT #15 FOR REPAIRS, MAINTENANCE AND SCHEDULING OF PLAYFIELDS AT MADRONA NON-GRADED K-8 SCHOOL.**
- J. ACCEPTANCE OF MAYOR HAAKENSON'S RESIGNATION EFFECTIVE JULY 2, 2010.**

ITEM I: MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF EDMONDS AND CITY OF SEATTLE RELATING TO EXCESS CAPACITY OF HIGH SPEED FIBER OPTIC COMMUNICATION SYSTEM.

Councilmember Buckshnis requested an update from staff regarding the fiber optic business plan. Finance Director Lorenzo Hines explained a number of target opportunities have been identified. Members of an Economic Development Commission subcommittee will conduct a cost-benefit and marketing analysis of those targets. Once he has reviewed their analysis, the potential targets of opportunity will be presented to the Council. He explained these opportunities will set the framework for pursuing other opportunities and the experience with these targets will facilitate development of an overall business plan.

Mayor Pro Tem Bernheim asked how this related to the Memorandum of Understanding (MOU), an agreement between the City Edmonds and the City of Seattle for Edmonds to be reimbursed for legal fees incurred in the fiber optic court case. Mr. Hines explained on October 22, 2009, the City was granted a

summary judgment which allowed Edmonds to commercialize and utilize its fiber optics assets. At that time Edmonds was the only city in the State allowed to do so; other jurisdictions in Washington would like to have the opportunity to utilize their fiber optic assets including Seattle. Seattle approached Edmonds requesting assistance with their efforts to gain access to commercial utilization of their fiber assets. The MOU states Seattle will pay all the costs associated with Edmonds' assistance.

Councilmember Wilson referred to Section 3 of the MOU that states Edmonds will pay for appellant appeal costs. City Attorney Scott Snyder explained this type of litigation, a declaratory judgment action, was odd in that the City was seeking to establish a precedence for bond purposes and the City paid both sides of the litigation. Section 3 states Seattle will not pay the appellant's costs. Councilmember Wilson asked for clarification of Mr. Hines' statement that Edmonds will not pay anything and the statement in the MOU that Seattle will pay their costs but will not pay the appellant's costs. Mr. Hines explained Seattle's costs would be for the defense, Edmonds' costs would be for the appellant. He explained the appellant costs are included in the budget; the intent of the MOU was to minimize costs above those budgeted.

Councilmember Wilson asked why Edmonds was appealing when the City won the case. Mr. Hines explained via the appellate process, the case can be opened and other entities allowed to enjoy the same rights granted Edmonds. The goal of the appellate action is for the judge to grant the rights that were granted to Edmonds to other jurisdictions.

Councilmember Wilson asked if appealing the judgment opened the City to some risk and if there was a chance the judgment could be overruled. Mayor Pro Tem Bernheim advised the case had already been appealed. Councilmember Wilson asked when the Council took the position to appeal a case in which the City had been victorious. Mayor Pro Tem Bernheim recalled that direction had been given during executive session. Mr. Snyder explained the MOU was to accept \$50,000 from Seattle. He offered to provide the Council the summary minutes from the executive session when that direction was provided.

COUNCILMEMBER PLUNKETT MOVED, SECONDED BY COUNCIL PRESIDENT PRO TEM PETERSON, TO APPROVE ITEM I.

Councilmember Wilson advised he would vote against the motion because he did not have a complete understanding of why the City was taking this action.

Mayor Pro Tem Bernheim explained the action in the appellate court was to provide precedential value so that Edmonds' decision will not be overturned by a later court action when another city sought the same rights.

MOTION CARRIED (5-1), COUNCILMEMBER WILSON VOTING NO.

Mayor Pro Tem Bernheim requested Item 6 follow Agenda Items 7 and 8. The Council concurred with his request.

3. COMMUNITY SERVICE ANNOUNCEMENT: EDMONDS CHAMBER OF COMMERCE - TASTE OF EDMONDS

Craig Cooke, Edmonds Chamber of Commerce, provided the Council a press release and entertainment lineup for the August 13-15 Taste of Edmonds. He explained tens of thousands of people attend the Taste, the largest festival in Snohomish County and the second largest in the State. The Taste provides funding that allows the Chamber to sponsor over \$20,000 in community programs and services. He described the economic benefit of the Taste to the Edmonds community and the 200+ volunteers who

make the event possible. This year's Taste includes 70 arts and crafts booths and 40 food booths as well as entertainment. He invited Councilmembers to serve as judges in this year's Taste Off. Admission is \$3, children under 12 years of age are free and no pets are allowed. Further information is available at the Edmonds Chamber of Commerce website, www.Edmondswa.com. He commented even in this down economy, they have obtained over \$100,000 in sponsorships and there will be several national tours at the Taste including Microsoft Xbox 360 Connect, Dunkin Donuts, Verizon's NASCAR show car, Burt's Bees as well as J.P. Patches & Stan Boreson.

Council President Pro Tem Peterson pointed out the proceeds from the Taste assist the Chamber with funding community events such as the Tree Lighting, Car Show, 4th of July parade/fireworks as well as benefits many service clubs.

4. PROCLAMATION DESIGNATING JULY AS PARKS & RECREATION MONTH.

Mayor Pro Tem Bernheim read a proclamation designating July as Parks & Recreation month.

Councilmember Buckshnis commented she has been involved in the Adopt a Park Program and encouraged citizens to participate in that program.

5. APPOINTMENT TO FILL CITY COUNCIL VACANCY.

Mayor Pro Tem Bernheim read the rules for nomination/election to fill a Council vacancy: each Councilmember may nominate one candidate from the list of applicants by placing an "X" beside the name of the applicant of his or her choice on the form supplied for that purpose by the City Clerk, and by signing the nomination form. The City Clerk will announce and maintain a permanent record of the nominations and of the Councilmember nominating each candidate.

Each Councilmember may vote for one candidate by placing an "X" beside the name of the candidate of his or her choice on the ballot supplied for that purpose by the City Clerk, and by signing the ballot. The City Clerk will announce and maintain a permanent record of each ballot and who voted for each candidate.

Deputy City Clerk Linda Hynd distributed the first nomination ballot to Councilmembers. Those nominated were: Paul Anderson (Councilmember Fraley-Monillas), Frank Demme (Councilmember Plunkett), Lora Petso (Mayor Pro Tem Bernheim and Councilmember Buckshnis), Frank Yamamoto (Council President Pro Tem Peterson), and Todd Cloutier (Councilmember Wilson).

Vote No. 1 was taken. The results were: one vote for Frank Demme (Councilmember Plunkett), two votes for Lora Petso (Mayor Pro Tem Bernheim and Councilmember Buckshnis), one vote for Paul Anderson (Councilmember Fraley-Monillas), one vote for Frank Yamamoto (Council President Pro Tem Peterson), and one vote for Todd Cloutier (Councilmember Wilson).

Council President Pro Tem Peterson disclosed that Mr. Yamamoto was a friend, had contributed to his campaign and would be an excellent choice to fill the Council vacancy.

Councilmember Wilson advised he knew and considered approximately three-fourths of the candidates as friends. He disclosed Mr. Anderson may have contributed to his campaign; he supported Mr. Cloutier's wife in her past Council campaign; Mr. Cloutier and he participated on a board together; Ms. Petso endorsed him and her son-in-law has been one of his supporters as well as an employee of his business.

Mayor Pro Tem Bernheim reported he contributed to Ms. Petso's campaign and Mr. Hertrich contributed to his campaign.

Vote No. 2 was taken. The results were: one vote for Frank Demme (Councilmember Plunkett), three votes for Lora Petso (Councilmembers Wilson and Buckshnis and Mayor Pro Tem Bernheim), one vote for Frank Yamamoto (Council President Pro Tem Peterson), and one vote for Paul Anderson (Councilmember Fraley-Monillas).

Vote No. 3 was taken. The results were: two votes for Paul Anderson (Councilmembers Fraley-Monillas and Peterson), and four votes for Lora Petso (Mayor Pro Tem Bernheim and Councilmembers Wilson, Plunkett and Buckshnis).

Administration of Oath of Office

City Clerk Sandy Chase swore in Ms. Petso and Councilmember Petso took her seat at the dais.

Councilmember Fraley-Monillas thanked all the applicants, commenting there were many fine citizens interested in being involved. She urged them to run for office in the future. She also thanked City Clerk Sandy Chase and Senior Executive Council Assistant Jana Spellman for preparing and sending her the packet and DVD of the interviews when she was out of town last week and unable to participate in the interviews. She commented on the difficulty of selecting one person from the pool of 17 original applicants.

Council President Pro Tem Peterson commented on the outstanding group of applicants. He encouraged them to file to run for office, get involved in a campaign or attend Council meetings.

Councilmember Wilson commented he was also out of town last week when the interviews were conducted. He explained the Council had three Tuesdays per year, the fifth Tuesday of the month, when no meeting is scheduled and he had made plans to be out of town. He also had an opportunity to watch the interviews and echoed Council President Pro Tem Peterson's comments regarding the qualifications of the candidates. To him, the most important characteristic in the appointment process was whether that person had previously run for office. If a person was willing to endure that process, it was likely they would work hard as a Councilmember. For that reason, he had supported former Councilmember Wambolt, Council President Pro Tem Peterson and now Councilmember Petso when they were candidates for appointment.

Councilmember Buckshnis commented on the caliber of applicants, noting experience was important and Councilmember Petso provides that.

Councilmember Petso thanked the Council for their support and looked forward to serving the citizens of Edmonds.

Mayor Pro Tem Bernheim echoed Council President Pro Tem Peterson's comments regarding the applicants.

7. PUBLIC HEARING ON THE STORM AND SURFACE WATER MANAGEMENT COMPREHENSIVE PLAN UPDATE.

Stormwater Engineer Program Manager Jerry Shuster explained the public process began in May when the first draft of the Plan was posted on the City's website. The Plan is currently under review by the Department of Commerce as part of their 60-day review period which began on June 7. Two meetings

were held with the Planning Board including a public hearing on June 9 a SEPA Determination of Non-Significance was issued on June 3 and the Plan was introduced to the City Council on June 22.

Mr. Shuster described the Storm and Surface Water Comprehensive Plan:

- An element of the City's Comprehensive Plan
- Guides the operation of the City's Storm and Surface Water Utility, a fee for service utility that conveys stormwater off property as well as roads
- Assists the City in complying with applicable federal, state and local regulations
- Identifies and proposes solutions to known flooding, water quality and habitat issues
- Details actions necessary to comply with regulatory requirements, especially the Western Washington Phase II Municipal Stormwater Permit, an unfunded mandate
- Presents an operation and maintenance plan, capital improvement plan and financial plan to address known problems and compliance with federal, state and local regulations

The Plan needs to be updated for the following reasons:

- The last Plan was completed in 2003 prior to the effective date of the Phase II Permit
- Re-prioritization of capital projects based on accomplishments and new issues
- Goals and policies in the City's Comprehensive Plan last updated in 1985 are outdated

Programmatic elements in the Plan are largely driven by requirements of the Phase II Permit:

- Review of development submittals for compliance with the City's Stormwater Code
- Inspect and maintain publicly-owned and operated detention and water quality systems
- Inspect and track maintenance of privately-owned and operated detention and water quality systems
- Illicit discharge detection and elimination program – proactive program to find illicit dischargers
- Public education and outreach program
- Monitoring

Mr. Shuster emphasized the programmatic elements in the plan to ensure compliance with the Phase II Permit Program requires additional staff. The plan asks for one additional FTE in engineering and one additional FTE in Public Works. The Plan also includes capital projects that are divided into two tiers. Tier 1 projects provide a basic or essential level of service from the Stormwater Utility and address long standing reoccurring flooding issues. The 17 Tier 1 projects over the next 6 years total approximately \$8 million. The rate structure as proposed would 100% fund the Tier 1 projects.

The four Tier 2 projects cost 3 times as much as the 17 Tier 1 projects. Tier 2 projects are scheduled to begin in 2014 and are anticipated to be 25% rate funded and 75% from outside sources (as yet unsecured).

Mr. Shuster displayed a map identifying the location of the proposed capital projects, noting several are in the vicinity of Perrinville Creek, southwest Edmonds and the waterfront/marsh area.

A rate adjustment is necessary due to increased service levels to comply with the Phase II Permit. He emphasized the City would not be providing the same service for more money; more service would be provided in return for the rate increase. Staff recommends the following increase in rates, commenting it was the minimum necessary to comply with the Phase II Permit:

(Includes Tier 2 Projects)	Current	2010	2011	2012
Adjustment/month		66¢	72¢	78¢
\$/month	\$8.31	\$8.97	\$9.69	\$10.47

Mr. Shuster provided a comparison of 2010 single family residential stormwater utility rates for 10 comparable cities that illustrated the highest (Redmond) at \$16.56 and the lowest (Lynnwood) at \$6.70. The proposed Edmonds Tier 1 funding scenario is \$8.93/month and \$8.97 for the Tier 2 funding scenario. He explained the 2010 average rate was \$10.61; Edmonds' proposed rate in 2012 of \$10.47 would still be lower than the current average.

Councilmember Buckshnis pointed out WIRA 8's indication that day lighting of Willow Creek may be moved from their ten year plan to their three year plan with only a 15% match. She asked whether the Planning Board's recommendation to move the Flood Plain Delineation from 2012 to 2011 was reflected in the Plan. Mr. Shuster answered it was not; however, projects could easily be moved. If the Flood Plain Delineation were moved to 2011, he recommended moving Project 8, North Talbot Road Improvement Project, from 2011 to 2012. Councilmember Buckshnis expressed her support for the Planning Board's recommendation to move up the Flood Plain Delineation.

Councilmember Buckshnis observed FTEs were embedded in the rate structure. She asked if that was common, suggesting salaries should be General Fund expenditures. Mr. Shuster explained all activities related to the Stormwater Utility, including the new position, must be funded via the stormwater rate. Councilmember Buckshnis asked whether his salary was funded via the stormwater rate. Mr. Shuster answered it was.

Councilmember Buckshnis suggested distributing educational materials via utility bills. Mr. Shuster explained that has been discussed and was on his list of projects that could be accomplished once another person was hired.

Councilmember Fraley-Monillas asked the cost of each FTE and their duties. Mr. Shuster answered the position in Engineering would be an Engineering Tech; the salary range is \$4000-4800/month plus benefits. The primary duties of the Engineer Tech would be the illicit discharge detection and elimination. He anticipated this effort would begin in commercial areas in areas of the system where there were older connections. The position would also assist him with public education and outreach and monitoring as well as work with Public Works on inspections. He explained the recordkeeping associated with monitoring is extensive.

Public Works Director Noel Miller explained the Public Works position would be a Maintenance Worker I; the starting salary for that position is \$45,000/year. The duties would be to assist with the maintenance program as well as work with private property owners on annual inspection of their stormwater systems. Staff has identified approximately 400 systems in the City and anticipates there are more. A further survey will be conducted to identify other systems and place them on an annual inspection schedule.

Mayor Pro Tem Bernheim relayed staff's recommendation to approve the Storm and Surface Water Management Comprehensive Plan Update including both the Tier 1 and Tier 2 capital projects. He opened the public participation portion of the public hearing.

Al Rutledge, Edmonds, commented the average salary for police and fire personnel is \$61,000/year compared to the salary quoted for the Maintenance Worker I salary of \$45,000/year. Next, he reported on the Planning Board meetings where they discussed the Flood Plain Delineation and funding for improvements on Lake Ballinger. He reported 35 new homes being constructed on Halls Lake in Lynnwood will increase drainage into Lake Ballinger. He pointed out the Plan includes \$42,000/year for stormwater improvements on Lake Ballinger and requested that be increased to \$84,000. The Lake Ballinger Forum has been discussing improvements but has no funding.

Roger Hertrich, Edmonds, agreed with Mr. Rutledge that funding needed to be included in the Plan for stormwater improvements on Lake Ballinger. He referred to the \$16 million expenditure for Tier 2 projects, commenting only the government was creating jobs because they had the ability to tax the public. He objected to the proposal to increase the number of employees when development was down. He also objected to the proposed 25% increase in water rates. He expressed concern with the Tier 2 expenditures for the Edmonds Marsh, suggesting improvements could be made to the marsh more slowly. He referred to a project in Perrinville and suggested Lynnwood be encouraged to contribute to that project. Until the economy improved, he recommended the City not add any employees.

Todd Cloutier, Edmonds, referred to the Planning Board's recommendation to move project 2A, the 100 Year Flood Plain Study, explaining that completing the study now would support waterfront development and avoid any surprises when waterfront development plans are submitted.

Hearing no further comment, Mayor Pro Tem Bernheim closed the public participation portion of the public hearing.

With regard to Lake Ballinger, Mr. Shuster explained the City has been involved for the past 3-4 years via the Lake Ballinger Forum with the five other jurisdictions that have a watershed that drains into Lake Ballinger. The Forum is slowly moving toward addressing water quality and flooding issues. He emphasized it had taken 40-50 years for Lake Ballinger to reach its current condition and it would not be completely rectified in 2-3 years, it will take a long time to fix the problem. The Forum is currently seeking additional funding sources. Until the Forum decides what they want to do, the \$42,000/year in the Plan is a placeholder for projects that arise. Once the Forum decides what they want to do, the amount can be adjusted.

With regard to the Planning Board's recommendation regarding Project 2A, the Flood Plain Delineation, Mr. Shuster explained that project could easily be moved from 2012 to 2011 and Project 8 moved from 2011 to 2012.

With regard to staffing, Mr. Miller agreed development review is down currently. However, staff's efforts have been diverted to a number of park, walkway and utility projects with funding from Parks and Utility budgets. He explained 10 years ago, there were 10 FTEs in Engineering and a population of slightly less than 30,000. Ten years later there are still 10 FTEs with a 25% increase in the population. The mandates as a result of the Phase II Permit require hiring additional staff. Mayor Pro Tem Bernheim summarized there will be additional work to be done.

With regard to the Flood Plain Delineation, Mr. Miller advised if a majority of the Council wished, the CIP could be revised to move the Study from 2012 to 2011 and to move Project 8 from 2011 to 2012.

With regard to Lake Ballinger capital improvements, Councilmember Wilson agreed the Lake Ballinger Forum was moving forward slowly. There were six members of the Forum: Edmonds, Mountlake Terrace, Lake Forest Park, Shoreline, Snohomish County and Lynnwood. Lynnwood recently decided to leave the Forum. He noted Mountlake Terrace has \$250,000 in their budget for Lake Ballinger; Lake Forest Park as \$450,000 and Edmonds has \$25,000. He recalled the City spent \$25,000 on a project associated with Lake Ballinger, directing runoff from the new impervious surfaces of the Interurban Trails into a detention pond. He suggested increasing funding of Lake Ballinger associated projects that have a direct impact on water quality.

Councilmember Plunkett referred to the proposed stormwater and water rate increases in Agenda Item 6 and asked whether the Comprehensive Plans would need to be revised if the Council did not support the rate increases. Mr. Miller answered they were connected and if the Council did not support the proposed

rate increases, the capital improvement programs in the Plans would need to be revised. City Attorney Scott Snyder explained the GMA requires the City to identify a funding source for projects. If the Council did not support the rate increase to provide funding for the projects, the timing of projects would need to be changed or projects removed from the list.

Councilmember Petso advised she had only been involved in the Water Comprehensive Plan and due to the complexity of the Storm and Surface Water Comprehensive Plan and the proposed rate increases, she would abstain from the vote on those items.

Councilmember Fraley-Monillas commented she understood the need for the rate increase but was concerned with increasing utility rates and hiring employees. She did not support hiring when the City was considering a levy and an increase in utility rates. Mr. Shuster explained the current stormwater rate was \$8.31/month; of that \$6.43 funds programs (people, operating machinery, and maintenance) and \$1.88 funds capital projects. The additional FTEs are needed to increase operations and programs. Mr. Miller explained the City must comply with the Clean Water Act. If the City does not comply, it is vulnerable to legal action by outside parties.

In response to Mr. Hertrich's comments, Councilmember Buckshnis explained the Tier 2 projects total \$16 million, the Edmonds Marsh restoration and day lighting of Willow Creek are estimated to cost \$7 million of which the City would only pay \$1,050,000 if funding is provided via WRIA 8. She noted if those projects are not completed, there will be a degradation of the existing system. Installation of the second track will include installation of culverts and it is appropriate to do those projects at the same time.

Councilmember Plunkett referred to Mr. Miller's comment regarding the City's legal obligations and asked if the City was required to increase stormwater rates by 8% and water rates by 7.5% to address its legal obligations. Mr. Snyder explained the Clean Water Act is a strict liability statute; failure to maintain paperwork or file paperwork on time or filing incorrect paperwork is a violation regardless of the reason. He summarized the requested position will not only assist with cleaning catch basins and performance maintenance but will also free up time to fulfill the paperwork obligations that are a new requirement of the federal law. More work is required; it was not simply hiring another person to do the same work. Councilmember Plunkett observed neither Mr. Snyder nor Mr. Miller indicated the City would be in violation if rates were not increased by 25%. Mr. Snyder answered staff was proposing the additional positions in order to comply; he was unable to speak to the exact percentage.

Councilmember Wilson explained at the Lake Ballinger Forum, there is a clear fact story with regard to litigation particularly from downstream communities. The reason Lake Forest Park has \$450,000 in their budget is the water ends up near the fire station in Lake Forest Park adjacent to Lake Washington. Lake Forest Park feels there are only two remedies to the constant flooding – the Lake Ballinger Forum and litigation. He anticipated by not participating in the Forum, Lynnwood has placed itself in litigious jeopardy.

Councilmember Wilson asked how the Council's action on the Comprehensive Plans related to the CIP and implementation of the budget? He observed if the Council adopted the rate increase and adopted the Plan, the Council still had to vote on the budget to implement the Plan including the additional FTEs. He asked whether the Council was authorizing the FTEs via approving the Plan and rate increases tonight. Mr. Miller answered no; the Council would still need to take action on the FTEs. However, the Plan does indicate the need to hire two additional staff members. Councilmember Wilson advised a Councilmember could vote to approve the Plan and vote against hiring the additional employees in the future. Mr. Miller advised if that occurred, staff would need to determine another option to fulfill the Plan without additional staffing such as hiring staff on a contractual basis.

With regard to why the staff positions were funded from the Utility Fund, Mr. Snyder explained by State law each utility fund was separate from the General Fund and required to bear its own costs. The General Fund cannot subsidize the Utility Fund and the Utility Fund cannot subsidize the General Fund.

Councilmember Buckshnis pointed out the incremental changes in the rates: in 1999 the rate increased from \$3.70, to \$5.30 in 2002 and the next increase was to \$6.41. She summarized there were significant increases in stormwater rates in the early 2000s. Mr. Miller explained those rate increases were necessary as the level of service for the stormwater system increased, both for staffing and equipment, to comply with the Endangered Species Act (ESA) approximately ten years ago. Councilmember Buckshnis summarized the proposed increase was to comply with the Clean Water Act. Mr. Miller agreed.

COUNCIL PRESIDENT PRO TEM PETERSON MOVED, SECONDED BY COUNCILMEMBER WILSON, TO APPROVE THE UPDATE OF THE STORM AND SURFACE WATER MANAGEMENT COMPREHENSIVE PLAN THAT INCLUDES BOTH THE TIER 1 AND TIER 2 CAPITAL PROJECTS.

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER WILSON, TO AMEND THE MOTION TO MOVE PROJECT 2A, THE 100 YEAR FLOOD PLAIN DELINEATION, FROM 2012 TO 2011 AND MOVE PROJECT 8, THE NORTH TALBOT ROAD DRAINAGE IMPROVEMENT PROJECT, FROM 2011 TO 2012. AMENDMENT CARRIED (5-1-1), COUNCILMEMBER FRALEY-MONILLAS VOTING NO AND COUNCILMEMBER PETSO ABSTAINED.

Council President Pro Tem Peterson commented that Edmonds has gotten a lot for its money for many years and will continue that in the future. He emphasized these projects are mandated by the federal government and are necessary to remain in compliance. If the City is not in compliance, it is open to litigation which likely would be even more costly. He pointed out the proposed rate increase would fund specific projects and not simply the General Fund. He commended staff for developing the Plans and the proposed rate increases to ensure the City was in compliance. In addition to addressing infrastructure and flooding, the projects also assist with protecting the environment. He referred to the oil spill in the Gulf of Mexico and a beach closure in another community due to bacteria runoff following a storm, stressing the rate increase was not just about FTEs, it was to ensure the clean water this community cherishes.

COUNCILMEMBER WILSON MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO AMEND THE MOTION TO MOVE APPROXIMATELY \$60,000 PER YEAR FROM LINE 6, CITYWIDE DRAINAGE REPLACEMENT PROJECTS, IN YEARS 2011-2013 TO LINE 7, LAKE BALLINGER ASSOCIATED PROJECTS, SO THAT THE TOTAL AMOUNT FOR LAKE BALLINGER ASSOCIATED PROJECTS INCREASED FROM \$40,000 TO \$100,000 IN EACH YEAR. SPECIFICALLY IT WOULD BE TO MOVE \$60,000 IN 2011 AND 2012 AND \$58,000 IN 2013.

Councilmember Wilson explained in many cases the projects would be similar because they were drainage projects to the Puget Sound Watershed or the Lake Ballinger Watershed. Now, he could indicate to the Forum that Edmonds was dedicating \$100,000/year to Lake Ballinger, a tremendous political impact.

MOTION CARRIED (6-0-1) COUNCILMEMBER PETSO ABSTAINED.

Councilmember Plunkett commented although unfunded mandates and potential litigation may be worthy of consideration, neither the City Attorney nor staff stated a 25% rate increase was required to avoid litigation and to comply with unfunded mandates. He was not convinced that a 25% increase was warranted to meet the goals and objectives referred to by Council President Pro Tem Peterson.

Councilmember Fraley-Monillas expressed appreciation for the Plan. She agreed with it in principle but would vote against it for the following reasons, 1) the Plan required additional FTEs and 2) she was opposed to adding staff when consideration was being given to increasing water rates and to a levy.

Councilmember Wilson commented although staff had not explicitly stated the rate increase would avoid liability and implement the federal regulations, they had stated that indirectly. The City is required by federal law to provide this service and it cannot be provided without additional staff. He expressed his horror at the situation in the Gulf of Mexico, commenting that although many cite public safety as one the most important functions of a city, stormwater runoff is a similarly important issue. He commented on the impacts of stormwater on the quality of life, noting there are more urban streams between Seattle and Everett than any other place on the West Coast. An amount of oil equivalent to the Exxon Valdez oil spill enters the Puget Sound each year via stormwater runoff. He summarized the importance of supporting regulations that implement the Clean Water Act.

Councilmember Buckshnis was encouraged that the proposed rate increase would fund two new jobs in the community. She requested further information regarding the education and outreach program, envisioning education via media, booklets, mailings, etc. She was satisfied with the rate increase, noting it was within the median income level and the two positions would be hired at the entry level.

Mayor Pro Tem Bernheim expressed his support for the Plan and increasing stormwater rates, recognizing these are new requirements that provide a greater degree of protection to Puget Sound.

UPON ROLL CALL, MOTION CARRIED (4-2-1), COUNCILMEMBERS FRALEY-MONILLAS AND PLUNKETT VOTING NO AND COUNCILMEMBER PETSO ABSTAINED.

8. PUBLIC HEARING ON THE 2010 WATER SYSTEM COMPREHENSIVE PLAN UPDATE.

City Engineer Rob English introduced **Tom Lindberg, P.E., Murray, Smith & Associates, Inc.**

Mayor Pro Tem Bernheim provided staff's recommendation to approve the 2010 Water System Comprehensive Plan Update.

Mr. Lindberg explained MSA was tasked with the engineering and planning elements of the Plan. He introduced **Nihat Dogan, Project Manager, FCS Group**, who developed the financial information. Mr. Lindberg explained the purpose of the Water System Plan was:

- Long-term guidance document with 6-year focus
- Required by Department of Health every six years
- Identify improvements for City's CIP program
- Evaluate water rates and charges
- Last Water System Plan updated in 2002

He identified new regulatory requirements since 2002:

- Drinking water regulations updated in 2004 and 2009
- Department of Health updated water system design guidelines in 2009
- 2003 Municipal Water Law
- 2007 Water Use Efficiency Rule

Mr. Lindberg identified and provided photographs of major water system facilities including:

- Alderwood Supply Station
- 1.5 million gallon (MG) below-grade Yost Reservoir

- 1.5 MG below-grade Seaview Reservoir
- 1.5 MG and 3.0 MG above-grade reservoir and pump station at Five Corners

He provided an overview of the chapters and appendices in the Plan. Major work elements in the plan include:

- Data collection
- Water demand evaluation
- Water system analyses
- Water system improvements
- Financial program

He reviewed the current status of the plan:

- All elements complete and reviewed by City staff
- Presented to Planning Board on May 26th & June 9th
- SEPA process completed on June 17th
- Presented to City Council on June 22nd

Mr. Lindberg reviewed accomplishments since 2002:

- CIP Projects
 - Approximately 75% of 2002 Water Main Replacement Program is either completed or designed. This includes replacement of 30,900 linear feet of old water main and design for replacement of an additional 9,500 linear feet is 90% complete and approaching construction
 - Completed 6 water system facility improvement projects
- Water Conservation
 - Approximately 1% per year reduction in consumption

He reviewed current water system sustainability elements:

- Ongoing leak detection program
- Ongoing water main replacement program
- Bills showing consumption history
- Evaluation of reclaimed water opportunities
- Involvement as member of Everett Water Utility Committee
 - Indoor and outdoor conservation kits
 - Audits of school irrigation systems and commercial users
 - Public outreach and school-based education programs
 - Rebates for water efficient toilets and clothes washers

Water use efficiency and sustainability accomplishments since the last Plan was completed include:

- Overall supply declined from 3.65 million gallons/day (MGD) in 2003 to 3.07 MGD in 2008
- Per capita water usage declined from 111 gallons/day (1995-2000 average) to 104 gallons/day (2003-2008 average)
 - Current goal to reduce annual per capita water usage by 1% per year
- Water system leakage complies with Dept. of Health regulations
 - Less than 10% leakage based on 3-yr rolling average

He provided distribution system leakage trends for 2001 to 2010 that illustrate decreasing leakage. He also provided per capita water usage trends for 2001 to 2010 that illustrate a decreasing usage trend. He explained their existing system evaluation evaluated the Alderwood Supply Station, the Five Corners

Pump Station, the Five Corners, Seaview and Yost reservoirs, and the distribution system (water mains). Their evaluation determined:

- Supply capacity is sufficient with improvements underway
- Storage capacity is sufficient
- Pump station capacity is sufficient
- Old water mains are reaching end of useful service life
- Many water mains are undersized to provide sufficient fire flow
- Some water mains are leaking and main breaks are occurring

Mr. Lindberg described existing system conditions, displaying 2002 photographs illustrating corrosion and build-up in a 1928 8-inch cast iron water main and a 1928 12-inch cast iron water main. He also displayed a 2009 photograph of a 1929 8-inch cast iron water main that broke in December 2009.

Their evaluation determined the following water system needs:

- 2010-2016 CIP totals \$20.1 million, averaging \$2.87 million per year
- Water main replacements account for 87% of 20-year CIP
- Approximately 1% of all water mains replaced each year per the CIP schedule
- Additional staff for GIS support at 1/3 FTE for Water Utility

He explained the objectives of the financial evaluation conducted by FCS Group were to

- Identify total cost of providing water service, operations and maintenance costs as well as capital improvement costs
- Identify financial program for the next 6 years

Major tasks in the financial evaluation included:

- Reviewing existing financial condition of water utility
- Summarizing financial policies
- Identifying capital funding resources
- Developing a capital funding plan with projected rate adjustments
- Developing a financial forecast
- Reviewing affordability of rates

The financial evaluation determined:

- Annual rate increases of 7.5% over the next 3 years are necessary to fund the operations and maintenance program and planned capital improvements.
- Rates will be reviewed again in 2012

Mr. Lindberg noted in the June 22 presentation the recommended annual increase was 8.5%. Recent data from Alderwood Water indicates lower wholesale costs over the next few years resulting in a lower rate increase.

Key factors for the rate increase include:

- Ongoing need to replace aging and leaky water mains; many are undersized to meet current fire flow requirements
- Alderwood Water District's anticipated wholesale rate increases
- Decreasing water revenues per capita from gradual water usage reductions due to successful conservation activities
- Lack of low interest loan and grant programs from the State for funding water system improvements

Mr. Lindberg provided a comparison of Edmonds water rate increases to purchased water cost increases and inflation increases during 1993 to 2009 and projected increases through 2012. The comparison indicates Edmonds rates were raised 5 times during the last 17 years and that during 1993-2009, the average annual increase was approximately 2.3% compared to inflationary increases of 2.5% and Alderwood's water cost increases of approximately 3.5%.

Mr. Lindberg provided a comparison of Edmonds existing and proposed rate with other utility districts' single family monthly water rates that range from a high of Seattle's summer rate of \$45.33 to a low of Lynnwood's rate of \$14.97. Edmonds current rate is \$22.05/month; the proposed rate is \$23.71/month, an increase of \$1.66/month.

He reviewed next steps:

- Submit plan to Department of Health and adjacent water purveyors – July 2010
- Department of Health review complete approximately October 2010
- Adoption by City Council anticipated approximately November 2010

Mr. Lindberg highlighted questions raised by the Planning Board with regard to low fire flows shown in the Water System Plan and the schedule for individual water main projects.

Councilmember Petso explained she raised concerns at the Planning Board regarding fire flows. She recalled at the last meeting staff indicated they had reviewed the fire flow numbers and worked with Fire District 1 to identify problems in the system and determined while fire flow may be low at a particular hydrant, there was sufficient flow at nearby hydrants. She asked whether there were areas where fire flows were below desired targets and/or the State required standards. Mr. Lindberg answered a fire flow analysis was conducted for the entire system. All areas identified with low fire flow will be improved via projects on the CIP. Before those improvements are made, the areas surrounding a specific hydrant with deficient flow have higher fire flow than the one hydrant with low fire flow. Councilmember Petso asked whether a statement to that effect could be included in the Plan, that the issue had been researched and that adequate flow to all sites could be assured. Mr. Lindberg answered that could be done.

Councilmember Petso asked whether there was adequate fire flow at Stevens Hospital. Mr. Lindberg answered the majority of the mains in that area are 8-inch which do not have sufficient fire flow to meet the highest fire flow requirement in the system. Councilmember Petso asked whether it met legal minimums. Mr. Lindberg answered it does not meet the fire flow of 5,000 GPM. Councilmember Petso asked if that was a policy target fire flow or the State minimum. Mr. Lindberg agreed that was a planning level fire flow. Mr. Miller explained conversations with Fire District 1 indicate they are satisfied there is sufficient fire flow under normal circumstances. Fire District 1 also pointed out the Stevens Hospital buildings are constructed to be fire resistant and have fire sprinklers. He summarized the Fire Marshal indicated the fire flow should be addressed via water main improvements in the future as shown in the Plan but it was not an immediate concern.

Councilmember Petso asked if the City would continue to follow the scoring matrix to establish priorities or would certain safety projects such as the mains near Stevens Hospital or projects where a road would be dug up for another project be considered in establishing priorities. Mr. Miller answered those factors would be taken into consideration regardless of a project's priority in the scoring matrix. Councilmember Petso suggested the language on page 913 of the Plan that the scoring matrix would be used to determine priorities be deleted and that staff be allowed discretion to adjust individual project priorities based on other relevant circumstances. Mr. Miller agreed that could be done.

City Attorney Scott Snyder referred to the memo he provided the Council in response to the issues Councilmember Petso raised at the Planning Board, explaining if the Council wished to change priorities based on fire flow, it would be a General Fund cost, not a water rate cost. He suggested fire flow improvements be funded via the water utility tax collected in the General Fund rather than water rates. Councilmember Petso anticipated there would be situations where the water main was also leaking and may justify the improvement. She did not anticipate it would be the Council's responsibility to tell staff whether an improvement was for fire flow, leak or for another reason.

Councilmember Petso referred to financial policies in the Plan, specifically the statement that the Plan would not include a Capital Contingency Reserve. She asked if that was typical or if there was another source of funding to address a facility failure. Mr. Miller explained most of the capital improvements were main replacements, a proactive approach to replace 1% of the mains each year for the foreseeable future. Staff has the discretion to scale back main replacement projects in the event of a capital failure. Based on the condition of facilities, the likelihood of failure is small. Failures in the distribution system are more likely which are addressed via the water main replacement program. Because the water utility is a part combined utility fund, there are reserves for the general combined utility rather than each separate utility.

With regard to system replacement, Councilmember Petso commented typically a utility would set aside funds to address replacement; however the Plan states no system reinvestment funding is included per staff's direction to reduce immediate rate impacts. She asked if it was typical to set aside funds for replacement and if so, why the City did not. **Nihat Dogan, Project Manager, FCS Group**, explained typically a system replacement funding policy recognizes the need for rates to generate more money to fund depreciation expenses and put those funds aside for future replacement. In Edmonds the capital improvement program already includes asset replacement projects and the existing capital funding strategy finances those replacements. If the Plan included a system replacement policy, rates would be much higher. Instead of setting aside funds, the replacement projects are included in the capital improvement program and the impact is spread over a longer period of time.

Councilmember Wilson suggested continuing the public hearing and offered to work with Councilmember Petso and staff on changes to the Plan to address her concerns.

Mayor Pro Tem Bernheim opened the public participation portion of the public hearing.

Roger Hertrich, Edmonds, recalled financing of hydrants was removed from the water utility and now are financed separately. He questioned how the money in the water utility that was previously spent on hydrants was being used. He pointed out there was no federal mandate for the proposed Plan. He agreed with the suggestion to continue the public hearing to allow additional research. Next, he expressed concern with the City's expenditure of \$800,000 on water system improvements as a result of the double tracking and suggested the City pursue funding from BNSF. He also objected to the 18% water utility tax as well as the proposed rate increases. He referred to comments he provided to the Council on May 18 that building permits are down 58% and plan check fees are down 42%, yet the number of City employees has not been reduced. He summarized the proposed rate increases were excessive and the Council should investigate the minimum rate increase necessary.

Todd Cloutier, Edmonds, pointed out the capital investment plan in the 2003 Water Plan was not executed for a variety of reasons including emergencies and understaffing. The Planning Board's recommendation includes requiring periodic reports on the status of the Water Plan. With regard to the connection between the Stormwater, Water and Transportation Plans, he recommended the Council direct staff to identify places where the plans overlap to allow projects to be done simultaneously.

Chris Fleck, Edmonds, commented on the reference to a rate adjustment rather than a rate increase, emphasizing this was a proposed rate increase. He expressed concern that one of the reasons for the rate increase was lower usage due to water conservation.

Al Rutledge, Edmonds, recommended the City identify funds for replacement projects. He pointed out water rates could impact citizens' water consumption.

Hearing no further comment, Mayor Pro Tem Bernheim closed the public participation portion of the public hearing.

In response to Mr. Hertrich's comment regarding funding for fire hydrants, Finance Director Lorenzo Hines explained as a result of Lane v. City of Seattle, Edmonds' water utility tax was increased from 10% to 18.7% to address that new requirement. Utility taxes are collected and deposited in the General Fund and once a year an amount is transferred to the Combined Utility Fund. For example, a November 2009 a budget amendment transferred \$340,000. Mr. Snyder suggested City Clerk Sandy Chase provide the minutes from the meeting when the water utility tax was increased.

With regard to the suggestion to continue the public hearing, Mr. Snyder explained the Water Comprehensive Plan would be presented to the Council for a public hearing again in November along with other Comprehensive Plan amendments. The Council would have the ability to make changes at that time as well as hold additional public hearings.

COUNCILMEMBER WILSON MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO CONTINUE THE PUBLIC HEARING TO AUGUST 3, 2010.

Mr. Miller suggested next week's Community Services/Development Services Committee address the issues raised by Councilmember Petso and any other concerns.

MOTION CARRIED UNANIMOUSLY.

Mayor Pro Tem Bernheim requested Councilmembers forward any additional concerns to staff as soon as possible.

Mayor Pro Tem Bernheim declared a brief recess.

6. PUBLIC HEARING ON WATER AND STORMWATER FINANCIAL RATE INCREASES AS RECOMMENDED IN THE 2010 WATER AND STORM AND SURFACE WATER COMPREHENSIVE PLANS.

Public Works Director Noel Miller explained in conjunction with the Comprehensive Plan Updates for the City's Water System and Storm and Surface Water Systems, sufficient revenues must be available in order to implement the plans. Based on a financial analysis performed as part of the City's Comprehensive Water & Storm Water Plan Updates, FCS Group and City Staff have determined that utility rate increases are necessary. He displayed a 2010 – 2012 proposed monthly utility rates (water, sewer and stormwater) for the average residential customer. He described the proposal to increase water rates 7.5% later this year, 7.5% in January 2011 and 7.5% in January 2012. He advised no increase was proposed in sewer rates; the current rate was adequate to support operations and capital programs. Mr. Miller described the proposal to increase stormwater rates 8.0% later this year, 8% in January 2011, and 8.1% in January 2012. The overall impact on a monthly residential customer was a 4.5% annual rate increase or per year as follows:

Year	Water Rate Inc.	Stormwater Rate Inc.	Total Inc.
2010	\$1.97	\$0.73	\$2.70
2011	\$2.13	\$0.79	\$2.92
2012	\$2.28	\$0.86	\$3.14
Total	\$6.38	\$2.38	\$8.76

Mr. Miller explained the federal Environmental Protection Agency developed an affordability index for utilities. The rate consultant compared Edmonds' proposed rate to the affordability index and determined a 2.5% increase was reasonable for these essential utilities. The overall effect of the rate increase to 2012 is approximately 1.2% or approximately half the amount the EPA determined an average citizen could afford.

Mr. Miller explained the proposed rate increases address the specific needs of the City's water and storm water utilities and in meeting increasingly stringent State and Federal regulations. In comparison with other jurisdictions in the area, the proposed rates are affordable to the average citizen. He summarized although the increases were substantial, they were necessary to continue to provide a reliable domestic water supply as well as fire protection. Further, if the City does not continue water main replacement, the reliability of the system decreases.

Mayor Pro Tem Bernheim asked the effect on this agenda item of the Council's action to continue the public hearing regarding the Water Comprehensive Plan. Mr. Miller responded the Council could continue the hearing on the water and stormwater rate increases or in light of the Council's approval of the Storm and Surface Water Management Plan, approve the stormwater rate increase.

Mayor Pro Tem Bernheim opened the public participation portion of the public hearing.

Roger Hertrich, Edmonds, commented the reason the sewer rate was not proposed to be increased was that fund was increased substantially in the past. He suggested the approximately 22% increase in water rates and 25% increase in stormwater rates was excessive regardless of the fact that the City had a combined utility. He feared if the Council approved the water and stormwater rate increases, voters would not approve an increase in the Transportation Benefit District (TBD) vehicle license fee or a levy. He reiterated his question regarding how the money that was previously used to fund fire hydrants was being used now.

Al Rutledge, Edmonds, suggested the City offset the increase in utility rates with a B&O tax.

Hearing no further comment, Mayor Pro Tem Bernheim closed the public participation portion of the public hearing. He relayed staff's recommendation to increase the water rates annually by 7.5% and the stormwater rates annually by 8.0% to adequately finance the proposed water and storm and surface water comprehensive plans for years 2010, 2011, and 2012.

Councilmember Buckshnis asked why an increase in the sewer rates was not being proposed. Mr. Miller explained the sewer rates generated enough revenue to cover operating and capital costs. The treatment plant was a major expenditure and caused sewer rates to increase 20 years ago. The bonds were paid off in 2008 and the revenue previously used for debt service is now available in the sewer utility for other projects such as updating the City's 15 pump stations.

COUNCIL PRESIDENT PRO TEM PETERSON MOVED, SECONDED BY COUNCILMEMBER WILSON, TO INCREASE THE WATER RATES ANNUALLY BY 7.5% AND THE STORMWATER RATES ANNUALLY BY 8.0% TO ADEQUATELY FINANCE THE PROPOSED

WATER AND STORM AND SURFACE WATER COMPREHENSIVE PLANS FOR YEARS 2010, 2011, AND 2012 AND DIRECT THE CITY ATTORNEY TO PREPARE AN ORDINANCE FOR COUNCIL APPROVAL.

Council President Pro Tem Peterson acknowledged concerns with the proposed increases; however, he balanced it with the amount of work citizens get for the money, the importance of the work, and continuing to provide clean drinking water. He commented friends visiting from New Mexico were amazed when he told them they could drink the tap water in Edmonds.

Mayor Pro Tem Bernheim commented since Edmonds was primarily a residential community, residents have to pay for the services they receive. He viewed the modest cost of utilities as the price to live in this outstanding community.

Councilmember Wilson acknowledged tax increases were not fun but Edmonds staff did more with fewer dollars than another city and had far fewer employees per capita for the services the City provides. Edmonds also has the lowest residential property tax rate of any similarly sized city in the area and the City's utility rates are well below the average.

Mayor Pro Tem Bernheim asked whether the Council wanted to continue this public hearing or take action separately on the water and stormwater rate increases. Council President Pro Tem Peterson suggested the Council could approve the rate increase as he did not envision substantial changes would be made to the capital improvements in the Water Plan. It was also appropriate to approve the rate increases at this time in view of the upcoming transition in Public Works.

Councilmember Wilson agreed it was unlikely there would be substantive changes made to the Water Plan.

Mr. Snyder clarified the recommended action was to direct the City Attorney to prepare an ordinance. The ordinance could be scheduled on a future Council agenda.

MOTION CARRIED (5-1-1), COUNCILMEMBER PLUNKETT VOTING NO AND COUNCILMEMBER PETSO ABSTAINED.

COUNCILMEMBER FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER PLUNKETT, TO EXTEND THE MEETING FOR ONE HOUR. MOTION CARRIED UNANIMOUSLY.

9. PUBLIC HEARING ON PROPOSED SIGN CODE AMENDMENTS TO PROVIDE CLARIFICATION OF DEFINITION AND CRITERIA FOR WALL GRAPHICS/MURALS.

Cultural Services Manager Frances Chapin explained in the current code murals on exterior walls are a type of non-commercial wall graphic. The purpose of the proposed amendments is to clarify the definition, review process and review criteria. Staff reviewed other cities' regulations with regard to murals and worked with the City Attorney to draft proposed amendments to the existing sign code. The proposed amendments were presented to the Community Services/Development Services Committee and the Committee forwarded the item to the Planning Board. The Planning Board held a public hearing, recommended minor revisions and forwarded the proposed amendments to Council. The document in the Council packet reflects the changes recommended by the Planning Board. The Council reviewed the proposed amendments on June 15.

Ms. Chapin referred to a typographical error on page 6 of the document; the word "renewable" should be "reviewable."

Ms. Chapin explained staff's research found that cities regulate murals in three ways:

1. Establish a theme and specific criteria to which all murals must conform.
2. Establish a special city-run mural program that regulates murals. Operating such a program requires staff time and money.
3. Treat murals as a type of sign for which a permit and fee are required as part of the sign code as a non-commercial graphic.

Edmonds had used the third approach in the past; a mural is considered a wall graphic in the sign code. Murals are a privately created graphic or artwork placed on a privately owned building or wall. Sign codes often include administrative standards and criteria for review which help clarify what the applicant needs to provide and to encourage an outcome that fits the community. Wall graphics/murals cannot be reviewed under the sign code based on content or aesthetic. A mural on a public building is considered public art which follows the public art review process. Staff proposes changes to the existing sign code to clarify how murals and wall graphics are handled within the City's sign code. The goal in establishing criteria is to ensure murals, 1) meet standards for materials and maintenance, 2) generally fit the surroundings and 3) clarify for the applicant what information is needed for review.

Ms. Chapin reviewed the proposed changes as follows:

- Definitions – the word “murals” was included in the definition of wall graphic and that they primarily do not contain words.
- Design Review Procedures –language in this section was changed to clarify wall graphic applications will be reviewed by the Planning Manager or designee. A subsection was added with review criteria.
- Staff Review of Murals and Artwork – although a separate sign permit is required for each wall graphic, staff may make one design review decision on wall graphics that consists of a related group of murals. Applicants are encouraged to coordinate artwork with the design/architectural elements of a building and the historic and pedestrian orientation of the downtown area.
- Submission requirements – specific submission requirements were added
- Review Criteria – a section was added identifying review criteria for design review related to quality of materials, durability and permanence, compatibility of the artwork with architectural elements or other street elements, minimizing lettering, etc.

Councilmember Buckshnis asked why a theme concept was not selected rather than just encouraging murals to be compatible with architectural elements. Ms. Chapin answered that would be a decision of the Council. Councilmember Buckshnis asked whether the permitting process would be less expensive for a theme-based mural program. Planning Manager Rob Chave answered whether a mural was theme based was irrelevant to the cost. For example if a theme required the involvement of the Arts Commission, a different process would be required and potentially additional applicant requirements.

Councilmember Buckshnis envisioned a theme such as “History of Edmonds” would require establishing parameters, thereby streamlining the mural review process and making the process less costly. City Attorney Scott Snyder explained the difference would likely be upfront costs to design criteria that were sufficiently enforceable. He summarized there may be less cost on a per application basis but more costs up front to develop criteria.

Councilmember Buckshnis commented Port Townsend, Port Angeles and Kalaloch all have themes. Mr. Snyder responded if the Council wanted to pursue a theme approach, that direction needed to be conveyed to staff.

Councilmember Fraley-Monillas commented a close family member was an artist and she envisioned a theme would reduce opportunity for artistic creativity. She preferred to allow artists to design/create murals that were specific to an area or building. Ms. Chapin explained the existing sign code regulates murals. Staff proposed these amendments to clarify the process for applicants and staff. The amendments also provide slightly more flexibility for the applicant. If the Council wants to pursue a different approach, direction needs to be provided to staff.

Councilmember Wilson inquired whether the definition of a mural was a painting on a wall or something applied to a wall. Ms. Chapin responded under the current code, a mural was a graphic applied to a wall that is less than ½ inch thick. It could be painted on the wall or applied via other methods. Councilmember Wilson pointed out the definition of wall sign includes signs painted directly on a wall, however, the regulations regarding murals do not apply to wall signs. Ms. Chapin clarified a mural was currently defined in the sign code as a non-commercial wall graphic. Councilmember Wilson commented there were different definitions for a painting on a wall versus painting on a surface, a wall graphic versus a wall sign. Mr. Chave clarified either would be a wall graphic; a wall graphic does not specify whether it is painted directly on the wall or on a material that is attached to the wall. Mr. Snyder referred to the definition of signs that states graphic symbols or written copy for the purposes of conveying a particular message. A mural may include graphics but is a broader category.

Councilmember Wilson referred to the definition of wall sign page 6 that states wall signs include signs that are painted directly upon a wall. He suggested this line be deleted. Mr. Snyder explained the difference was the amount of signage a business was allowed under the code. A mural would be in addition to any allowed wall signage. Mr. Chave explained the mural allowance was much broader than wall sign. A wall sign had strict limitations with regard to dimensions, height above the ground, etc.

Councilmember Wilson expressed concern that it appeared there were two design review procedures, the Planning Manager and the Architectural Design Board (ADB). Mr. Chave answered most signage is reviewed under the administrative process in conjunction with a building permit. Signs are not typically reviewed by the ADB unless flexibility is sought in the signage regulations such as an unusual location or building configuration. The ADB also reviews sign packages for larger complexes such as a series of signs.

Councilmember Wilson referred to page 8 and reference to review by the ADB due to the requirement to obtain a certificate of appropriateness from the Historic Preservation Committee (HPC) for murals on designated historic structures or with a designated historic district. He asked whether all murals downtown would be required to be reviewed by the HPC because downtown was a historic district. Mr. Chave answered the HPC has broad authority over historic sites and it may not be appropriate to apply a mural to a historic structure.

Councilmember Wilson found it odd that the regulations would require the artistic content to be consistent with the historic nature of the district and the HPC given authority to review art but not provide a role for the Art Commission. Mr. Chave responded it was the Council's discretion whether to require an arts process or treat murals like signage.

Councilmember Plunkett referred to the clause highlighted by Councilmember Wilson regarding obtaining a certificate of appropriateness, noting that would only be applicable to the 15 buildings that were officially recognized on the local or State historic registry. Mr. Chave agreed. Councilmember Plunkett pointed out no historic districts had yet been established in Edmonds.

Councilmember Wilson disagreed, pointing out the ordinance states a certificate of appropriateness shall be obtained from the HPC for murals on historic designated structures or within a designated historic

district and does not define a designated historic district. Councilmember Plunkett asked whether the reference to a historic district was an established historic district. Mr. Snyder pointed out there was a process for designating buildings and districts although no districts had yet been designated. He suggested deleting the clause regarding historic districts or capitalizing Historic District.

COUNCILMEMBER FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO CONTINUE THIS MATTER TO THE NEXT COUNCIL MEETING.

Councilmember Petso pointed out this was not a public hearing.

COUNCILMEMBER FRALEY-MONILLAS WITHDREW HER MOTION WITH THE AGREEMENT OF THE SECOND.

Mayor Pro Tem Bernheim opened the public participation portion of the public hearing.

Jeff Stillwell, Edmonds, Edmonds Mural Society (EMS), explained the Society is a non-profit organization whose mission is to celebrate the beauty, history and people of Edmonds by raising murals throughout the City. The EMS has strong support in the community since its inception last September as evidenced by 200 dues-paying members. He identified several members of the EMS in the audience. He explained raising murals was one of the most technically complex art forms. If a mural is to be of masterful design and lasting duration, careful research and thorough and careful preparation must be undertaken. The EMS takes raising a mural very seriously. He recognized Ms. Chapin for overseeing the effort to craft regulations for a mural. He relayed the EMS' support for the proposed amendments. He thanked Mr. Chave and the Planning Department for their thorough, willing and careful support during the permitting process.

Mayor Pro Tem Bernheim inquired about the proposed waiver of fees. Mr. Stillwell suggested at this time the Council only consider the municipal code change.

Manya Schilperoost, Development Director, Edmonds Mural Society, read a letter from the artist who created the first mural last September, Pat Brier. Ms. Brier described her honor at being chosen the first mural artist for the EMS' new mural program. She has been working as an artist since 1984, published in national anthologies, exhibiting in Edmonds since 2000 and an Edmonds resident since 1996. She described her efforts to develop a mural using the theme the EMS provided and the support provided by residents and visitors. She described residents' excitement of the concept of an outdoor fine art gallery with themes selected by the EMS membership and interpreted by artists in individual visual concepts. She relayed reports by other mural cities that artistic installations by their mural societies have substantially improved their economies.

Al Rutledge, Edmonds, reported there was little public participation at the Planning Board public hearing regarding the proposed amendment to the sign code. He recommended audience comments be scheduled earlier on the agenda.

Hearing no further comment, Mayor Pro Tem Bernheim closed the public participation portion of the public hearing.

COUNCILMEMBER PLUNKETT MOVED, SECONDED BY COUNCIL PRESIDENT PRO TEM PETERSON, TO APPROVE ORDINANCE NO. 3800, AMENDING THE PROVISIONS OF CHAPTER 20.60 RELATING TO SIGNS TO ESTABLISH CRITERIA FOR THE ISSUANCE OF SIGN PERMITS FOR WALL GRAPHIC MURALS AND ARTWORK.

COUNCILMEMBER PLUNKETT MOVED, SECONDED BY COUNCIL PRESIDENT PRO TEM PETERSON, TO AMEND THE ORDINANCE BY CAPITALIZING HISTORIC DISTRICT ON PAGE 8, PARAGRAPH 2E.

Mayor Pro Tem Bernheim suggested referencing the definition of Historic District. Mr. Snyder advised that could be done during the codification process.

AMENDMENT CARRIED (6-0-1). COUNCILMEMBER PETSO ABSTAINED.

Councilmember Plunkett explained he supported the proposed amendments as it was the least intrusive of the three alternatives. He preferred to have the least impact on the content, art and free spirit of murals.

Council President Pro Tem Peterson expressed his support for the proposed amendments. He thanked staff and the EMS volunteers, noting he was a dues-paying member of the EMS. He viewed the proposed amendments as a great step toward Edmonds being recognized as an arts community.

Councilmember Buckshnis echoed Council President Pro Tem Peterson's comments.

Councilmember Wilson commented although the proposed amendments were better than the existing code, it was not ideal for reasons he mentioned previously. He supported the ordinance but anticipated the City would be open to significant political challenges. He referred to the City of Snohomish where art such as murals were regulated by the sign code and the public outcry and political turmoil over a mural depicting naked pigs.

MAIN MOTION AS AMENDED CARRIED (6-0-1), COUNCILMEMBER PETSO ABSTAINED.

10. AUDIENCE COMMENTS

Al Rutledge, Edmonds, announced a Christmas in July event; Edmonds Lutheran Church will be collecting toys at Top Foods July 8 – 27.

David Dobradt, Seattle, LaRouche Political Action Committee, urged the Council to pass a resolution to reinstate the Glass-Steagall Act. He recalled encouraging the Council a few years ago to pass a resolution in support of the Homeowner Bank Protection Act resolution. At that time Mr. LaRouche warned if action was not taken to protect homeowners and banks, they would be destroyed by the financial collapse. That policy was not taken up by Congress and the result has been numerous bailouts and cities and states have been forced to make budget cuts or raise taxes. The Glass Steagall Act represents a form of protection from financial collapse, setting up a firewall between the bankrupt financial system, the population and the commercial banking system. He summarized economic recovery was possible if action was taken to assert the preamble of the constitution to protect the population from the bankrupt financial system.

Anastasia Mares, Seattle, LaRouche Political Action Committee, commented many cities and states are in financial crisis and tent cities are springing up everywhere. If leadership is not asserted via the Glass-Steagall policy, the United States will cease to exist. She commented on the discouraging situation for young people who graduate from college and are unable to find a job. If the Council does not pass the Glass-Steagall resolution as a body, she encouraged individual Councilmembers to support it.

Roger Hertrich, Edmonds, described a car fire that occurred across the street from Old Mill Town on a Tuesday evening at approximately 10:00 p.m. Bystanders called 911 and the police responded and blocked off the street. Personnel at the downtown fire station were unavailable and fire station #16 on

196th responded to the call. He expressed concern with the 11 minute response time from the time the police arrived and requested the Council investigate.

COUNCILMEMBER FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER PLUNKETT, TO EXTEND THE MEETING UNTIL 11:30 P.M. MOTION CARRIED UNANIMOUSLY.

11. APPOINTMENT TO AND DIRECTIONS FOR THE 2010 CITIZENS LEVY COMMITTEE

Mayor Pro Tem Bernheim advised ten citizens applied for the seven positions on the Citizens Levy Committee. The intent was for each Councilmember to appoint one member to the committee.

Councilmember Plunkett objected to appointing only seven members and suggested appointing all ten applicants.

COUNCILMEMBER PLUNKETT MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO APPOINT ALL TEN APPLICANTS TO THE LEVY COMMITTEE.

Councilmember Wilson explained the committee was advertised as each Councilmember appointing one member. Some citizens did not apply because they did not think they would be selected by a Councilmember. If the desire was to include everyone who applied, he recommended the committee be re-advertised.

Councilmember Fraley-Monillas suggested appointing seven members and three alternates who would attend meetings and vote if one of the committee members were absent. Councilmember Plunkett accepted her suggestion as a friendly amendment.

Mayor Pro Tem Bernheim restated the motion as follows:

APPOINT SEVEN MEMBERS AND THREE ALTERNATES WHO WOULD ATTEND MEETINGS AND VOTE IF ONE OF THE COMMITTEE MEMBERS WERE ABSENT

Councilmember Wilson explained there was nothing wrong with allowing everyone who applied to serve on the committee but it should be re-advertised if that was the intent. He noted the first meeting was not until July 21 which would allow time to re-advertise. He indicated he would not support the motion for other reasons.

Council President Pro Tem Peterson recalled the intent was for each Councilmember to appoint one member and the Mayor appoint one member.

Councilmember Fraley-Monillas appreciated the intent of inclusiveness but the point was to have a small group. She feared if the committee were re-advertised, the result could be another committee of 20-30 people.

Mayor Pro Tem Bernheim did not support the motion, preferring to abide by the announcement that was made.

UPON ROLL CALL, MOTION FAILED (2-4-1), COUNCILMEMBERS FRALEY-MONILLAS AND PLUNKETT VOTING YES; MAYOR PRO TEM BERNHEIM, COUNCIL PRESIDENT PRO TEM PETERSON AND COUNCILMEMBERS WILSON AND BUCKSHNIS VOTING NO, AND COUNCILMEMBER PETSO ABSTAINED.

COUNCILMEMBER FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER PLUNKETT, TO APPOINT EIGHT OF THE TEN MEMBERS TO SERVE ON THE CITIZEN LEVY COMMITTEE.

Councilmember Fraley-Monillas clarified her motion was each councilmember would appoint one member and the mayor would appoint one member. Mayor Pro Tem Bernheim clarified all eight would be voting members. He suggested delaying the appointment to be made by the mayor until the new mayor was selected.

Councilmember Petso requested additional time to make her selection as she had not seen the list of applicants.

Councilmembers made their selections as follows:

Councilmember Fraley-Monillas – John Reed
Councilmember Plunkett – John Carlin
Council President Pro Tem Peterson – Bill Vance
Councilmember Wilson – Evelyn Wellington
Councilmember Buckshnis – Darrol Haug
Mayor Pro Tem Bernheim – Harry Gatjens

COUNCILMEMBER PLUNKETT MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO ADOPT THE DIRECTION TO THE LEVY COMMITTEE AS STATED IN THE AGENDA MEMO.

Council President Pro Tem Peterson commented although he was originally opposed to the formation of the committee, now that the committee had been established he would support the direction provided to the committee.

Councilmember Wilson questioned the committee's ability to complete its work by December in order to place a levy on the February ballot, the goal stated by the Finance Committee. He pointed out the list of tasks was extensive, for example item 2 under Additional Direction states the levy committee shall review and report on Edmonds' financials to determine compliance to Ordinance 3789 and Resolution 1266. He noted that task alone could take until December. He did not support the motion.

Councilmember Buckshnis commented the City was in compliance with Ordinance 3789 and Resolution 1266 except for the General Fund. She agreed the tasks looked extensive but believed they were achievable given the way she has structured the process.

MOTION CARRIED (5-1-1), COUNCILMEMBER WILSON VOTING NO AND COUNCILMEMBER PETSO ABSTAINED.

12. REQUEST FOR DEFENSE UNDER EDMONDS CITY CODE CHAPTER 2.06.

Mayor Pro Tem Bernheim relayed staff's recommendation that the City Council authorize the City Attorney to represent two former city employees and two current employees in responding to a complaint to the state Board of Engineers.

COUNCILMEMBER WILSON MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, THAT THE CITY COUNCIL AUTHORIZE THE CITY ATTORNEY TO REPRESENT TWO FORMER CITY EMPLOYEES AND TWO CURRENT EMPLOYEES IN

RESPONDING TO A COMPLAINT TO THE STATE BOARD OF ENGINEERS. MOTION CARRIED (6-0-1), COUNCILMEMBER PETSO ABSTAINED.

12A. REMOVAL OF TREE AT 3RD AND WALNUT.

Councilmember Wilson displayed a photograph of a large tree on the corner of 3rd & Walnut that was planted 50 years ago by the family that lives in the house and currently operates the daycare. He explained behind the tree is a condominium project that was foreclosed on. When the ownership of condominium property changed, construction on the project continued. He provided a photograph illustrating that base of the tree is integrated into the fence line and the property owner experiences the tree as part of their property. Most of the tree is actually on City easement and a portion is on the citizen's property.

Last Thursday, after hearing a chainsaw, the owner of the daycare inquired of the chainsaw operator and was told it was none of her business because the tree was on City property. She informed them the tree was on her property. She contacted the City and the City responded they would investigate. On the previous day, Wednesday, the developer visited Development Services and inquired about removing the tree. Staff informed the developer they would investigate and get back to them. On Thursday morning, the developer removed the tree. It is also believed the developer as early as Monday began cutting the tree roots to order to destroy the tree.

Councilmember Wilson displayed a photograph with the tree and the daycare's fence removed and a photograph of replacement of the fence with a similar fence. The owner of the condominium project, Charles Ainsley, introduced himself to the property owner by saying he had just sold Golf Bank for \$18 million and asked how much cash she wanted to allow him to remove three additional trees. She told him she did not care about the money and cared more about the tree he removed that was planted by her family 50 years ago. Councilmember Wilson summarized the developer cut down a tree on City property, no different than cutting a tree in Yost Park, and the penalty was only \$500.

COUNCILMEMBER WILSON MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO INSTRUCT THE CITY ATTORNEY TO FILE A COMPLAINT SO THAT THE EDMONDS POLICE CAN BEGIN A CRIMINAL INVESTIGATION AND AUTHORIZE THE MAYOR PRO TEM TO INITIATE ANY LEGAL ACTION AS NEEDED IN THE NEXT SEVEN DAYS.

Council President Pro Tem Peterson stressed when City staff was asked about the tree, they told the developer not to do anything until they researched the matter further. The developer then ignored staff's direction and removed the tree.

MOTION CARRIED (6-0-1), COUNCILMEMBER PETSO ABSTAINED.

13. MAYOR'S COMMENTS

Mayor Pro Tem Bernheim had no report.

14. COUNCIL COMMENTS

Councilmember Fraley-Monillas reported while working in Boston during the past week, she stayed at the Omni Park Hotel, the longest continually operating hotel in the United States. She noted that the Wolfgang Puck coffee they provided in guest rooms is manufactured in Edmonds.

Councilmember Plunkett provided an update regarding the fiber optics business plan. Instead of creating a business plan that will fit everyone and be approved by the City Council, the Citizens Technology

Advisory Committee (CTAC), staff and the Economic Development Committee subcommittee have endorsed pursuing targets of opportunity. He explained a number of entities have approached the City about connecting to the City's fiber but they have been put off awaiting the business plan. The intent now is when a target of opportunity arises, the appropriate staff will conduct a cost/benefit analysis and a mini business plan developed to ensure the target will net the City money and then move forward with connecting them to the City's fiber. Over the next 6-12 months, targets of opportunity will be identified from whom the City can learn and gain experience. With that experience, a more extensive analysis will be conducted and a business plan developed.

Councilmember Plunkett commented although much of this is an administrative function, there may be additional investment that will require Council consideration. Future CTAC agendas will include discussion regarding potential expenditures associated with targets of opportunity. He summarized a complete business plan will not be presented to the Council; the CTAC will present a full report to the Council on August 24.

Council President Pro Tem Peterson welcomed Councilmember Petso to the Council and stated he looked forward to working with her. He congratulated and thanked the Chamber of Commerce for another fantastic 4th of July celebration. He also thanked all the volunteers who assisted with that event.

Council President Pro Tem Peterson expressed his thanks to retiring Public Works Director Noel Miller for his many years of service to the City.

Councilmember Wilson welcomed Councilmember Petso. He regretted missing the Council candidate interviews last week and the Mayor's going away party.

Councilmember Wilson pointed out the schedule for next Tuesday includes a Transportation Benefit District meeting at 4:00 p.m., followed by committee meetings, followed by mayoral interviews. He suggested cancelling committee meetings and scheduling the TBD meeting at 7:00 p.m. with interviews following or schedule the TBD meeting following the interviews or reschedule the TBD meeting to July 20. He suggested the mayoral candidate interviews be 20-25 minutes each. Mayor Pro Tem Bernheim responded the amount of time for the interviews will depend on the number of applicants.

Councilmember Buckshnis reported she was unable to attend Mayor Haakenson's going away party although she was able to see some of it on YouTube. She thanked Council President Pro Tem Peterson for donating cheese for the event.

Councilmember Buckshnis congratulated Councilmember Petso and announced this was Councilmember Plunkett's last meeting as a single man.

Councilmember Petso commented one of the special privileges about being on the Council again was being in the loop of volunteer activities in the City. She commented tonight's meeting referenced the volunteers who worked on the 4th of July parade, the Taste of Edmonds, Edmonds Mural Society and Christmas in July. She recalled during the Council candidate interviews there was discussion regarding leveraging Edmonds assets; these volunteers are one of the City's assets.

In response to Councilmember Wilson's suggestion regarding the schedule for next Tuesday, Councilmember Fraley-Monillas commented the priority should be the mayoral interviews. She suggested allowing 30 minutes for each interview due to the importance of the position. She suggested postponing the TBD meeting and/or committee meetings.

Mayor Pro Tem Bernheim requested Councilmembers provide him their preference with regard to next Tuesday's schedule within the next 36 hours.

15. ADJOURN

With no further business, the Council meeting was adjourned at 11:29 p.m.